

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SIDNEY KEYS,)
)
 Plaintiff,)
)
 v.) No. 4:13CV00361 ERW
)
 THE STATE OF MISSOURI,)
)
 Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court for review of plaintiff's complaint for subject matter jurisdiction pursuant to Rule 12(h)(3) of the Federal Rules of Civil Procedure. Plaintiff brings this action under the Due Process Clause for alleged violations of this civil rights.

Plaintiff alleges, in a wholly conclusory manner, that several entities violated his civil rights. For example, plaintiff claims that the United States Supreme Court's decision in Brown v. Board of Education violated his rights, and plaintiff complains that the family courts in St. Louis have violated his rights in relation to a custody battle. He complains about the previous dismissals of lawsuits by judges of this Court, and he complains about Ameren UE shutting off his electricity. However, his complaint is devoid of any non-conclusory facts, which if proved, might show that he is entitled to relief under some federal statute or provision of the constitution.

Rule 12(h)(3) of the Federal Rules of Civil Procedure states: “If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”

A court does not obtain subject-matter jurisdiction just because a Plaintiff raises a federal question in his or her complaint. If the asserted basis of federal jurisdiction is patently meritless, then dismissal for lack of jurisdiction is appropriate. Because this is a facial rather than a factual challenge to jurisdiction, [the court] determine[s] whether the asserted jurisdictional basis is patently meritless by looking to the face of the complaint and drawing all reasonable inferences in favor of the Plaintiff.

Biscanin v. Merrill Lynch & Co., Inc. 407 F.3d 905, 907 (8th Cir. 2005) (citations omitted).

The Court finds the asserted claims in the complaint to be patently meritless, and therefore, the Court is without jurisdiction over the complaint. As a result, this action will be dismissed under Rule 12(h)(3).

The Court notes that this is the third time plaintiff has brought this same case.¹ If plaintiff wishes for this case to be reviewed, he should file an appeal rather than refiling the same case in this Court.

¹See Keys v. Missouri, 4:13CV304 NAB (E.D. Mo.); Keys v. Missouri

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** for lack of jurisdiction.

An Order of Dismissal will be filed herewith.

So Ordered this 5th day of March, 2013.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE